THE NEW YORK STATE

register

January 11, 1989 Vol. XI, Issue 2

OBPRA—NEW REGULATIONS REVIEW REQUIREMENTS

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RULE MAKING ACTIVITIES

Subject: Occupational racing license.
Purpose: To enlarge the time frame of an occupational racing license thereby decreasing duplicative paperwork and manpower.
Text of emergency rule: Section One. Subdivision (g) of section 4002.1 of the Board's Thoroughbred Racing rules are hereby amended as follows:

(g) Each applicant for an occupational license shall pay an annual license fee at the time of the filing of the application. The license fees to be paid shall be as follows: original owner, jockey - fifty dollars ($50.00); trainer, assistant trainer, veterinarian - thirty dollars ($30.00); owner renewal, jockey agent, farrier - twenty dollars ($20.00); backstretch (grooms, etc.) cleaning and food service workers - five dollars ($5.00); all others - ten dollars ($10.00). *Such fees shall be multiplied by two for two year terms and by three for three year terms.*

§ 2. Section 4002.7 of the Board's Thoroughbred Racing rules are hereby amended as follows:

4002.7 Term of license. Each such *initial* license, unless revoked for cause, shall be for the period of one year from the first day of the racing season as specified by the [commission] *board . A renewal license for owner, trainer, assistant trainer, jockey, jockey agent, racing official, mutuel employee, maintenance employee of the NYRA, veterinarian, farrier, track management or track security employee shall be for three years unless an individual establishes good cause for a shorter term or the Board in its discretion determines a shorter term.*

§ 3. Subdivisions (d) and (g) of section 4101.24 of the Board's Harness Racing rules are hereby amended as follows:

(d) Each *initial* occupational license shall be for a period of one year beginning with the first day of racing for the season for which the same shall be issued; provided, however, that the [commission] *board* may, pending final determination of any question under section [41-a of chapter 254 of the Laws of 1940] *three hundred nine of the racing, pari-mutuel wagering and breeding law,* as amended, issue a temporary license upon such terms and conditions as it may deem necessary or desirable to effectuate the provisions of such chapter. No person shall be qualified to receive or hold an occupational license if he is not a bona fide participant in harness racing. *A renewal license for owner, trainer, assistant trainer, driver, racing official, mutuel employee, veterinarian, farrier, track management or track security employee shall be for three years unless an individual establishes good cause for a shorter term or the Board in its discretion determines a shorter term.*

(g) Each applicant for an occupational license shall pay an annual license fee at the time of the filing of the application. The license fees to be paid shall be as follows: owner, trainer, assistant trainer, driver, farrier, veterinarian, twenty dollars; backstretch (grooms, etc.) cleaning and food service workers, five dollars; all others, ten dollars. *Such fees shall be multiplied by two for two year terms and by three for three year terms.*

§ 4. Subdivisions (i) and (j) of section 4205.2 of the Board's Quarter Horse Racing rules are hereby amended as follows:

(i) Each applicant shall pay an annual license fee as follows:
Groom (including exercise boy, hot walker, pony boy) ..... $ 3.00
All others $10.00
Such fees shall be multiplied by two for two year terms and by three for three year terms.

(j) Applications for such licenses shall be received by the [commission] *board* on and after January in each year at its principal office in the borough Manhattan, City of New York, and no license shall be issued until after approval thereof by the [commission] *board.* [Such] *An initial* license shall be for a period of one year. *A renewal license for owner, trainer, assistant trainer, jockey, jockey agent, racing official, mutuel employee, veterinarian, farrier, track management or track security employee shall be for three years unless an individual establishes good cause for a shorter term or the Board in its discretion determines a shorter term.*

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously published a notice of emergency/proposed rule making, I.D. No. RWB-46-88-00018-EP, Issue of November 16, 1988. The emergency rule will expire 60 days after filing.
Text of emergency rule, the regulatory impact statement, if any, and the regulatory flexibility analysis, if any, may be obtained from: Gale D. Berg, Assistant Counsel, Racing and Wagering Board, 400 Broome St., New York, NY 10013, (212) 219-4211

Regulatory Impact Statement

1. Statutory Authority and legislative objectives of such authority.

The Board is authorized to promulgate these rules pursuant to Racing, Pari-Mutuel Wagering and Breeding Law, Sections 101, 213, 309, and 409.

2. Legislative objectives:

To properly regulate the conduct of pari-mutuel racing so as to enhance the best interests of racing through decreasing needless repetitive work. The rule will enable racing to function more efficiently.

3. Needs and Benefits:

These rules are needed to decrease repetitive filing of annual license applications if no substantial changes have been made. The rule will enable the Board to function more efficiently.

4. Costs:

(a) Costs to State governments:
None; a decrease will occur as less investigation will be neccessary.
(b) Costs to Local governments:
None.
(c) Costs to privately regulated parties:
None.

5. Paperwork:

There will be less paperwork because licensees will apply for three years instead of annually.

6. Duplication:

There will be no duplication involved.

7. Alternatives considered and why not incorporated:

Analysis and investigation leads to the conclusion that a maximum period of three years is the most efficient time frame.

Regulatory Flexibility Analysis

The board finds that no regulatory flexibility analysis statement is required since the proposed rule does not impose reporting, recordkeeping or other compliance requirements on small businesses. The rule increases the effective period of time that an occupational racing license is valid from one year to a maximum of three years. Consequently, the amendment will only affect individuals and not business.

DEPARTMENT OF SOCIAL SERVICES

NOTICE OF ADOPTION

Fair Hearings

I.D. No. SCS-52-87-00004-A
Filing No. 3033
Filing date: Dec. 23, 1988
Effective date: Jan. 15, 1989

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Repeal of Part 358; sections 387.20(a)(1), (2), (b) and (c), (d)(6); 393.5(d) and (f); 421.24(f)(6); addition of new Part 358; sections 355.2(b)(6); 387.20(a)(1), (2), (b) and (c); 387.21; 393.5(d) and (f); 399.7(q); 399.8(e); 431.11; amendment of sections 351.23(a) and (b); 351.24(g)(1); 355.2(b)(5); 360.33(a)(1) and (b)(1); 387.17(d)(7)(iv), (d)(9), (g)(2); and the opening language of 387.20(d); 387.20(d)(4) and (5); 393.5(b)(2) and (c); 404.1(f)(4); and renumbering of sections 387.21 as 387.22 and 421.24(f)(7) as 421.24(f)(6) of Title 18 NYCRR.
Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f) and 22(8)
Subject: Fair hearings.
Purpose: To update the regulations to reflect changes in the law, to address problems which have arisen in the fair hearing process, to reorganize the regulations in a useful and comprehensive manner, and to write the regulations in plain English.

Substance of final rule: Regulations governing the fair hearing process for applicants for and recipients of public assistance, medical assistance, food stamps, home energy assistance (HEAP) and services as contained in 18 NYCRR Part 358 have been recodified. In addition, conforming changes have been made in various provisions of 18 NYCRR concerning medical assistance, food stamps, food stamp fraud and intentional food stamp program violations and HEAP.

Part 358 has been divided into six subparts as follows:

—Scope and Effective Date

—Definitions

—Rights and Obligations of Applicants and Recipients and Sponsors of Aliens

—Rights and Obligations of Social Services Agencies

—The Fair Hearing Process

—Decision and Compliance

The goals of the recodification are to: (i) update the regulations to reflect changes in law; (ii) address problems which have arisen in the fair hearing process; (iii) reorganize the regulations in a useful and comprehensive manner; (iv) and assure that the fair hearing regulations are written in plain English.

Substantive changes to the current 18 NYCRR Part 358 include:

1. expansion and clarification of the language which must be contained in a notice of agency action in order for the notice to be adequate;

2. clarification of situations in which recipients and applicants are entitled to adequate notice. In addition, recipients of food stamps are entitled to adequate notice if there is an increase in benefits;

3. clarification of situations in which recipients are entitled to timely notice. A recipient of home relief who has been determined eligible for Supplemental Security Income (SSI) will not be entitled to timely notice if the social services district determines that the amount of SSI makes the recipient no longer eligible for home relief;

4. addition of a hearing right for former recipients to review matters which arose while they were recipients and for which they would have rights to a hearing if they were still recipients;

5. specification of the right to a fair hearing for the friend or relative of a deceased person who has paid for the deceased's burial arrangements and whose claim for reimbursement pursuant to Section 141 of the Social Services Law has been denied;

6. specification of situations in which applicants for or recipients of public assistance, medical assistance, food stamps or services do not have rights to a fair hearing. For example there is no hearing right to challenge:

(i) the amount of any lien taken by a social services agency in accordance with Section 106 of the Social Services Law;

(ii) a local social services agency demand for restitution of public assistance paid; or

(iii) the amount of child support payment which is passed through to the recipient pursuant to Section 131-a(8)(a)(v) of the Social Services Law.

In addition, recipients of services do not have hearing rights if services have been discontinued as a result of a court order, or the court order which required the provision of services has expired;

7. clarification of the right of the appellant to examine and obtain copies of the case record and the related obligations of the social services agency to provide access to and free copies of documents;

8. addition of the right of the deaf to an interpreter at a hearing pursuant to the requirements set forth in Section 301 of the State Administrative Procedure Act;

9. clarification of obligations regarding proof and the standard of proof;

10. addition of provisions governing access of the media to the fair hearing;

11. revision of procedures concerning abandonment of a fair hearing by an appellant;

12. revision of aid continuing provisions to provide that if assistance has or services have been reduced or discontinued by a social services agency and the appellant requested a hearing by the effective date contained in the agency notice of action, the social services agency must restore the appellant's assistance or services as soon as possible but in no event more than five business days of notification from the Department of the appellant's right to aid continuing. A similar deadline has been provided for restoration of assistance or services where the appellant was entitled to adequate but not timely notice and the appellant requested a hearing within 10 days of the mailing of the agency notice. In addition, the time frames within which a hearing must be requested in order for the appellant to have a right to aid continuing have been clarified;

13. addition of the right to priority in scheduling of a hearing for food stamp households which will be moving out of the social services district before the fair hearing decision would normally be issued and for denials of assistance or benefits where expedited determination of eligibility is otherwise required by the Department;

14. specification that once a social services agency or the Department is notified that an appellant has an authorized representative, such representative must receive copies of all correspondence from the agency and the Department relating to the conference and/or fair hearing;

15. a provision that a representative will be considered to be authorized by the appellant to represent the appellant at a conference and/or fair hearing and to examine the appellant's case record without a written authorization if the representative is an attorney or an employee of an attorney. An employee of an attorney must present written authorization from the attorney which states that such person is an employee of the attorney or the attorney must telephone the agency and advise the agency of such employee's authority;

16. clarification of the procedures for issuance of decisions without hearings;

17. addition of detailed procedures for hearings involving the food stamp program; and

18. specification of the statute of limitations for requesting fair hearings on matters relating to food stamp benefits.

Final rule as compared with proposed rule: Substantive changes were made in Subparts 358-1, 358-2, 358-3, 358-4, 358-5, 358-6 and sections 393.5 and 431.11.

Text of rule, the revised regulatory impact statement, if any, the revised regulatory flexibility analysis, if any, and the assessment of public comment, if any, may be obtained from: Michael J. McNaughton, Director, Local District Policy Communications, Department of Social Services, 40 N. Pearl St., Albany, NY 12243, (518) 473-6369

Revised Regulatory Impact Statement

The regulatory impact statement published on December 30, 1987, in the New York *State Register* concerning fair hearing regulations is still valid except as noted in this revised statement.

As explained below and in the Assessment of Public Comment, some suggestions require further review. It is anticipated that as a result of such a review, a number of additional amendments to 18 NYCRR Part 358 will be proposed during the next few months.

Amendments have been made to the published regulations to:

—clarify situations in which notice of the right to a fair hearing is required. Such situations now include acceptance of applications in all programs and increases of benefits in all programs except service programs;

—specify the right to a hearing even though there has been no change in a grant or benefit or spenddown of excess income for medical assistance, if a recipient wishes to challenge a social services agency determination that the amount of an item used in calculation of assistance or benefits or spenddown has changed;

—clarify the definition of mass change in food stamp program;

—revise the definition of hearing officer to require that a hearing officer be an attorney;

—delete limitations on the right to a hearing of recipients of services contained in the published version of section 358-3.1(e)-(1);

—revise the language concerning the right to priority in scheduling hearings where an application for emergency assistance for aged, blind and disabled person (EAA) and emergency assistance to needy families with children (EAF) has been denied or where food stamp benefits are involved and the household will be moving from the social services district before a fair hearing decision would normally be issued, or where there has been a denial of assistance or benefits where the Department otherwise requires the expedited determination of eligibility for such assistance or benefits. A separate amendment relating to other priorities in scheduling will be submitted for public comment in the future;

—clarify the right to reimbursement for transportation expenses and other necessary costs and expenses related to participation in a fair hearing;

—require that where the appellant has requested a hearing prior to the effective date of the action contained in a notice, restoration of benefits

must be made no later than five business days from notification to the social services agency by the Department that the appellant is entitled to aid continuing. Language concerning reinstatment of benefits where there was no prior notice has been similarly amended. As published, the language could have given the impression that districts should take five days to restore benefits;

—clarify that records which an agency intends to present at a fair hearing must be provided to an appellant within three business days of the appellant's request for such records;

—require that once a social services agency and the Department are notified that an appellant has an authorized representative, such representative must receive copies of all correspondence from the social services agency and the Department relating to the conference and fair hearing;

—upon approval of the Office of Administrative Hearings, permit social services agencies, in limited situations, to appear through the submission of papers, without personally appearing;

—require adequate notice, but not timely notice, for a recipient of home relief who has been determined eligible for Supplemental Security Income (SSI) and the social services agency has made a determination that the amount of SSI makes the recipient no longer eligible for home relief;

—provide that a fair hearing will be considered abandoned if neither the appellant nor the appellant's representative appears at the hearing or contacts the Department: (1) within 15 days of the scheduled date of the hearing to request that the hearing be rescheduled and to provide the Department with a good cause reason for failing to appear, or (2) within 45 days of the scheduled hearing date to establish that the appellant did not receive the notice of the hearing prior to the scheduled date;

—provide that hearing officers must be impartial. This language was omitted inadvertently from the published regulations;

—provide that protection of the right to confidentiality of persons other than the appellant is a consideration in deciding whether to admit the media to a hearing;

—provide that if the effective date of a proposed action falls on a weekend or holiday, a hearing request postmarked or received on the day after the weekend or holiday will be considered timely for the purposes of aid-continuing;

—clarify the procedures for issuing decisions without a hearing; permit a decision without a hearing to be held on motion of the Commissioner; and conform the time for an appellant to reply to an agency response to the time allowed for agency response. Time for response and for reply is set at 10 business days;

—delete language permitting the Commissioner to issue directives prior to a hearing since the Commissioner has overall authority to issue directives pursuant to Social Services Law sections 20 and 34;

—conform the time frames for compliance with decisions to Federal regulatory requirements;

—add procedures for requesting and issuing amended and corrected decisions;

—clarify exceptions to the right to access to an appellant's case record;

—permit telephone conferences in limited circumstances approved by the Office of Administrative Hearings;

—expand applicability of 18 NYCRR Part 358 to the Home Energy Assistance Program (HEAP);

—transfer specific requirements regarding content of food stamp notices from 18 NYCRR Part 387 to 18 NYCRR Part 358;

—specify requirements for notices of medical assistance restriction and recoupment. These requirements are not new requirements but consolidate requirements currently found in various parts of 18 NYCRR and administrative directives;

—conform the definition of hearing officer in 18 NYCRR Part 358 to the definition in 18 NYCRR Part 434;

—delete references to mediation;

—conform additional provisions of 18 NYCRR to changes made in 18 NYCRR Part 358; and

—set forth an effective date for various provisions of the regulations and provide a grace period for agency notices to meet such requirements. The rights and obligations contained in the recodification are effective on January 15, 1989. For districts to have sufficient time to develop, revise, and implement any necessary local procedures and manuals, as well as to develop automated local equivalent notices where necessary, use of State-mandated notices will not be required until June 1, 1989. Where social services districts are using automated notices, such automated notices must comply with the new requirements by October 1, 1989. In the interim period, social services districts may continue to use their current automated notices, or may use the new State-mandated notices. The new notice requirements will not be applicable to the HEAP Program until the 1989/90 HEAP Program year. The requirement that recipients be provided with notices of increases in food stamp benefits is not effective until June 1, 1989.

Regulatory Flexibility Analysis

Although substantive changes were made to the regulations as published in the *State Register*, the changes do not require that the flexibility analysis be revised.

Summary of Assessment of Public Comment

Written comments were received from four advocate groups and eight local social services districts. In addition, appropriate legal staff of the Department had a number of meetings with an advisory committee comprising legal advocates and local agency attorneys, all of whom provided extensive comment and aided substantially in the development of the final language. All comments were carefully reviewed and many changes were made in response to the comments. This "Summary of Assessment of Public Comments" will highlight the areas discussed in the "Assessment of Public Comment".

Copies of the "Assessment of Public Comments" can be obtained from Michael McNaughton, Local District Policy Communications Unit, 40 North Pearl Street, Albany, New York 12243, Telephone (518) 473-6369.

Advocate groups suggested that more detail be included in notices sent by social services districts. Social services districts commented that the notice content requirements were extensive. In response to the comments, a number of changes have been made to clarify the contents of notices in specific situations.

Advocate groups suggested that for timely notice, five days be added to the current 10 day period to allow for delays in mail and difficulty in telephoning in a request for a hearing. No changes were made since we did not ascertain that there was a significant problem in this area. Telephone access to the Department for purposes of requesting a fair hearing is being improved and the current regulations meet federal requirements.

In response to comments regarding the requirement that a hearing officer be an attorney, the regulations have been amended to maintain the requirement that a hearing officer be an attorney.

The regulations were redrafted to clarify when a client is entitled to notice and has a right to a fair hearing. Although social services districts expressed concern about having to provide notices for increases in benefits, due process rights require that clients be informed whenever there is a change in benefits. It is critical that the client receive information sufficient to ascertain that benefits are computed properly, even if the action being taken is not one which has an adverse effect on the client.

Advocate groups objected to limitations on hearings involving liens, restitution and child support pass-through payments. No changes were made in this area because the first two issues are more appropriately resolved by the courts and remedies are adequately addressed by other bodies of law. The right to request hearings involving child support pass-through payments is currently being litigated.

One advocate group suggested that additional limitations be placed on situations where districts could take action against a recipient without prior notice. Additional changes have not been made. The protections that additional limitations would offer clients would be outweighed by the burden such further limitations would place on social services districts.

The provisions concerning access to records engendered the most comments. Districts objected to the provisions, saying that access was too broad. Advocate groups objected to the new requirements that copies of documents a social services agency intends to present at a hearing would be provided only upon request and that documents not provided prior to the hearing would be excluded at the hearing. The "Assessment of Public Comments" discusses at length the differences between the current provisions of 18 NYCRR Part 358 and the new provisions and the resolution of the comments on this subject.

Language concerning the right to reimbursement for travel, child care and other expenses related to the hearing has been amended to clarify what is reimbursable.

Advocate groups commented that the five day period for restoring reduced or discontinued benefits is too long in most situations. The language has been changed to clarify that five days is the maximum time for restoration of benefits.

One advocate group opposed agency conferences. The conference procedure has been maintained. Conferences can be very helpful to the client in resolving differences earlier in the process and in establishing a dialogue between the client and agency in a less stressful environment than in a hearing, often at a location closer to the client's home.

One advocate group opposed mediation. The local social services district currently involved in the mediation process recommended that mediation be discontinued. We have analyzed the mediation process and have determined that it is of limited value. Therefore, the regulations as filed delete all references to mediation.

No changes have been made in response to comments from an advocate group that social services agencies not be allowed to request an adjournment of a fair hearing. A local social services district requested that appellants not be allowed more than one adjournment. Due process rights of both parties, as well as this Department's administrative needs, require that there be flexibility in granting adjournments.

One advocate group said that the standard of substantial evidence was inappropriate at a de novo hearing. This standard conforms to Section 306(1) of the State Administrative Procedure Act. This standard has also been upheld on the judicial level in *FORESTA* v. *NEW YORK STATE POLICEMEN'S AND FIREMEN'S RETIREMENT SYSTEM*, 95 A.D.2d 893 (3d Dept., 1983) and *MARTINEZ* v. *BLUM*, 624 F.2d 1 (2nd Cir., 1980). Therefore, no changes were made in response to the comments.

Advocate groups argued that time frames should be established for expedited hearings. Procedures for priority scheduling of hearings are currently under review. Situations in which priority in scheduling is available have been expanded.

Social services districts opposed media access to hearings on the ground of confidentiality of the appellant and of others whose names might be mentioned at the hearing. In response to these comments, language has been added to the regulations which would protect the confidentiality of those persons for whom the appellant cannot waive the right to confidentiality.

Advocate groups wanted the hearing decision to contain rulings on the rejection of evidence, requests for issuance of subpoenas and the adequacy of notices. Language has been added to allow the hearing officer to address violations of 18 NYCRR Part 358 in the decision and to fashion appropriate remedies.

One advocate group wanted more detailed compliance procedures as well as language which would have required that the Department obtain immediate implementation of decisions. The current regulations are in compliance with federal requirements. Language has been added to require that compliance be prompt but in no event later than the federally mandated time frames.

A number of comments were received concerning decisions without hearings. One advocate group wanted the process to be mandatory when there are no disputes as to the facts. A social services district wanted the process used only if the social services district agreed that there was no dispute of facts. It has been the Department's position that the decision without hearing process rests within the discretion of the Commissioner of Social Services. This has been further clarified in the final draft of the recodification. The recommendation that a social services district specifically agree that there is no dispute of fact before a decision without hearing can be issued has been rejected because there are too many instances where social services districts fail to respond to the Department's request for an answer to an application for a decision without a hearing.

NOTICE OF ADOPTION

Medical Services for Children in Foster Care

I.D. No. SCS-52-87-00005-A
Filing No. 3031
Filing date: Dec. 23, 1988
Effective date: Jan. 13, 1989

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Repeal of sections 357.3(b); 442.21(g)-(j); 448.3(f)(2) and (3), (f)(4)(i) and (iii), (j)(3); 507.1 and 507.2; amendment of sections 442.21(a); 447.2(d)(6); 448.3(f)(4)(ii); 463.2(b); addition of sections 357.3(b); 428.5(c)(6); 441.22; 507.1 and 507.2; and renumbering of sections 428.5(c)(6)-(9) as (7)-(10); 442.21(k)-(n) as (g)-(j); 448.3(f), 5-9 as 3-7; (f)(4)(ii) as (f)(2); and 448.3(j)(4) as (j)(3) of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 350(1)(g) and 462

Subject: Medical services for children in foster care.

Purpose: To establish uniform standards for the provision, frequency and documentation of medical services to foster children.

Substance of final rule: The proposed regulatory amendments would establish uniform requirements for the content and frequency of medical examinations for children in foster care and the documentation of medical services offered or provided to foster children. Additional provisions concern the release of medical records of foster children, the offer and delivery of family planning services and services provided under the Child/Teen Health Plan.

A new subdivision (b) would be added to 18 NYCRR 357.3 to govern the disclosure of medical information concerning foster children. The amendment would require that a child's comprehensive health history be forwarded to an authorized agency when the care of a child is transferred from one agency to another agency. To the extent it is available, the comprehensive health history of a foster child must be released to prospective adoptive parents, to a child discharged to his or her own care or the child's parents or guardian when the child is released to their care.

A new Section 441.22 would be added to 18 NYCRR to establish standards and schedules for physical examinations of foster children. A comprehensive medical examination would be required within 30 days of admission into foster care unless records document that such an examination has been completed within 90 days prior to admission into care and the initial medical exam is waived by the authorized agency.

The examination must follow current recommended medical practice and must include a comprehensive health history; a comprehensive physical exam; observation of the child for abuse or maltreatment; a vision test; a hearing test; an assessment of immunization status; laboratory tests as indicated; and a dental care assessment. Any necessary follow-up care must be provided or arranged.

Within 60 days of acceptance into foster care of a child who is eligible for medical assistance, a local social services district must notify the foster care provider of the availability of Child/Teen Health Plan (C/THP) services and provide the names and locations of appropriate health care providers.

Section 441.22(j) of 18 NYCRR would require an authorized agency to maintain an individual medical and dental record for each foster child in its care. The record must include Form DSS-711 (child's medical record), or a comparable physician's medical record form, Form DSS-704 (medical report on mother and infant) and Form DSS-3306 (progress notes on medical and dental care). The agency also would be required to enter data, related to medical exam activities, in the Child Care Review System (CCRS).

Section 441.22(n) of 18 NYCRR would require that upon the discharge of a child from foster care, a local social services district is required to provide a medical history of the child to the parents or guardian of the child, as appropriate, and to assist the parent or guardian or child in finding an appropriate medical provider and obtaining necessary medical care.

Section 463.2(b)(2) of 18 NYCRR would be amended to permit a child caring agency to offer family planning services to all foster children for whom the services would be appropriate, either with the prior approval of the local commissioner of social services or upon a delegation of responsibility to the agency by the local commissioner.

Part 507 of 18 NYCRR, which concerns the responsibilities of a local social services district to provide medical services to foster children, would be amended to be consistent with the other provisions of the proposed regulatory amendments concerning the schedule and content of physical examinations for foster children, the documentation of medical services provided to foster children and the provision of C/THP services to foster children.

Final rule as compared with proposed rule: Substantive changes were made in sections 357.3(b); 441.22(b), (c), (d), (h), (j); 463.2(b); and 507.1(c) and (e).